IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No 4983 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE D.P.BUCH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

CHANDUBHAI MELABHAIA NAYAK

Versus

STATE OF GUJARAT

Appearance:

MR HR PRAJAPATI for Petitioner

Mr S K Patel, APP for the State

CORAM : MR.JUSTICE D.P.BUCH

Date of decision: 06/09/2000

ORAL JUDGEMENT

Rule.

By consent of the learned Advocates for the parties, the matter is heard and finally disposed of.

2. The petitioner has prayed for appropriate orders for handing over the motor vehicles (tankers) seized in the aforesaid matters. The petitioner had moved appropriate application before the Sessions Court at

Vadodara being Criminal Misc.Application No.769/2000. The learned Sessions Judge, after hearing the parties, dismissed the said application of the petitioner on 24.8.2000. Feeling aggrieved by the said order, the petitioner has preferred this application. It is required to be considered that the petitioner herein does not carry and did not carry industrial solvent in his tankers but it appears that the petitioner had given the said vehicles on payment of rent and the person who had taken the vehicles from the petitioner had used it for the aforesaid purpose. It is submitted that those persons have been enlarged on bail in similar other cases and the seized vehicles have also been released pending trial.

3. It clearly appears that so far as the petitioners are concerned, the said solvent was not carried by the petitioner himself but his vehicles were being used for the aforesaid purpose. In that view of the matter, it would not be just and proper to keep the vehicles in custody for a longer period. On the one hand the petitioner would be put to loss day-to-day and on the other hand, at times, it is difficult even for the appropriate authorities to retain and preserve the such vehicles in proper condition. In that view of the matter, I am of the view that this is a fit case wherein the said vehicles should be handed over to the petitioner by way of interim arrangement pending hearing and disposal of the matter in question. Learned APP, Mr S K Patel seriously objects to it saying that when the vehicles are used for the purpose as indicated above, there is no guarantee that the said vehicles would not be used for the said purpose again. In one another identical matter, an order was passed requiring the person concerned to submit an undertaking to see that the vehicle in question does not involve any illegal activity. Similar condition can be imposed in this matter also. That apart, when the vehicles are given on rent, then it is difficult for the owners of the vehicles in question to move with vehicles from place to place. The aforesaid condition will ensure that the vehicles seized are not involved in any illegal activities. It has also been submitted that the vehicles are valuable and therefore, appropriate amount of surety should be directed. In the aforesaid view of the matter, it is directed that these two vehicles in question shall be handed over to the petitioner pending trial on furnishing a bond and surety of Rs. 1,50,000/- for each vehicle on following conditions:

(1) That the petitioner shall keep the vehicles in good condition,

(2) That the ppetitioner would not sell or otherwise transfer the vehicles in question in any manner whatsoever without permission of the trial court,

(3) The petitioner shall ensure that the vehicles do not get involved in any illegal activities,

(4) The petitioner shall produce the vehicles and other documents before the Investigating Agency whenever he is required to do so.

Rule made absolute to the aforesaid extent. D.S. permitted.

6.9.2000 [D P Buch, J.]
msp.